

# DECISION



## THE COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D. C. 20548

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FILE: B-183408

DATE: May 3, 1976 *98994*

MATTER OF: Monika Weaver Ogburn--Reconsideration of  
Claim for Reimbursement of Cost of Shipment  
of Privately Owned Vehicle.

### DIGEST:

Upon reconsideration, decision denying cost of shipping POV from Germany to the United States is sustained. Employee requests difference in cost between shipping POV on commercial basis and on a space-available basis after Army canceled transportation entitlement. Space-available shipment under AR 55-71, para. 12-7b(7) is privilege, not entitlement. Hence no right to space-available shipment can vest in employee on which claim can be based. However, since employee was never given opportunity to attempt space-available shipment due to administrative error in canceling entitlement, equities warrant reporting claim to Congress under Meritorious Claims Act, 31 U. S. C. § 236.

This action is a request for reconsideration of our decision B-183408, September 4, 1975, in which we disallowed the claim of Mrs. Monika Weaver Ogburn for the cost of shipping a privately owned vehicle from Germany to the United States. In that decision we held that there was no authority to pay for the shipment of a foreign-made vehicle at Government expense under the circumstances.

In their reclaim the Ogburns state that the claim was not for the cost of shipping the vehicle back to the United States but for the difference in cost of shipping said vehicle on a space-available reimbursable basis under AR 55-71, para. 12-7b(7) and the cost of shipping the vehicle on a commercial basis.

The above-mentioned regulation, AR 55-71, para. 12-7b(7), gives Department of the Army civilian and military personnel the opportunity to ship foreign-made vehicles back to the United States at a reduced cost if (1) the member is otherwise eligible to ship a vehicle, i. e., has a transportation entitlement, and (2) unused space is available on a chartered Military Sealift Command vessel. The member reimburses the Government for 100 percent of handling costs and 25 percent of the transportation costs which in this case was \$196.

The record shows that Monica I. Weaver, a civilian employee of the Department of the Army, was sent to Heidelberg, Germany, as a stenographer, under a travel order issued December 1, 1970, after signing a 3-year transportation agreement. The travel order authorized shipment of a privately owned vehicle, specified to be a 1964 Ford Fairlane. After being stationed in Germany for approximately 11 months, Miss Weaver married Aaron Wayne Ogburn, a civilian employee of the Department of the Army who also worked in Heidelberg. Mr. Ogburn was sent to Germany under a travel order issued June 14, 1971, as amended by travel orders issued June 28, 1971, and September 13, 1971. Mr. Ogburn had also signed a 3-year transportation agreement.

While in Germany Mrs. Ogburn sold her Ford Fairlane and purchased a 1972 Ford Pinto. Mr. Ogburn sold his Fiat and purchased a 1973 Peugeot. The Pinto was eligible for return shipment to the United States at Government expense under the provisions of AR 55-71, para. 12-6a. The Peugeot was not eligible for shipment at Government expense. However, Mr. Ogburn was eligible to ship the car on a space available reimbursable basis under AR 55-71, para. 12-7b(7).

On May 31, 1974, Mrs. Ogburn was issued a travel order for return travel to the United States, which included shipment of a privately owned vehicle. On June 4, 1974, Mr. Ogburn was issued a travel order for return travel to the United States which also included shipment of a privately owned vehicle. In addition, the Ogburns paid \$196 for handling and transportation charges for shipment of the Peugeot under AR 55-71, para. 12-7b(7).

The above-mentioned travel orders were amended by a travel order issued June 7, 1974, and a travel order issued June 13, 1974. The amendments required the Ogburns to travel as a family and reduced their privately owned vehicle entitlement from two to one. The orders were amended to comply with paragraph 2-1.5c of the Federal Travel Regulations (FPMR 101-7, May 1973). Paragraph 2-1.5c provides that when the husband and wife are both Government employees and are transferred, the permanent-change-of-station entitlement will be limited to either the husband or the wife, with the other employee being eligible as a dependent.

We have subsequently held that for purposes of a return transportation entitlement, paragraph 2-1.5c of the Federal Travel

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Regulations does not apply to overseas employees with separate transportation agreements who are later married. Accordingly, Mr. and Mrs. Ogburn should have been entitled to ship two privately owned vehicles at the time of their return to the United States. When the Ogburns left Germany, however, they had two privately owned vehicles and only one transportation entitlement. Under the circumstances they elected to ship Mrs. Ogburn's Pinto at Government expense and to ship Mr. Ogburn's Peugeot commercially at an expense to them of \$642.45. The \$196 deposit that Mr. Ogburn had paid for the shipment of his Peugeot on a space-available basis was refunded. As stated earlier, the Ogburns now request reimbursement for the difference between the cost of shipping the Peugeot on a space-available basis and on a commercial basis.

The shipment of a privately owned vehicle on a space available reimbursable basis under AR 55-71, para. 12-7b(7) is a privilege, not an entitlement. It is contingent on a number of factors including the availability of unused space on a Military Sealift Command chartered vessel. As a result of this contingency, no right to shipment can vest in the employee under the regulation. Accordingly, since there is no right to shipment, there is no basis on which reimbursement can be made, and the Ogburns' appeal must be denied.

Notwithstanding the above, because the Ogburns were entitled to two transportation entitlements and because the Ogburns were not permitted to take advantage of space-available shipment due to administrative error, we feel the equities are such as to warrant our reporting this claim to Congress pursuant to the Meritorious Claims Act of April 10, 1928, 31 U.S.C. § 236 (1970).

Accordingly, we are forwarding a report to the Congress recommending that payment of the claim be authorized.

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of the United States